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December 2nd, 1963.

The Chairman and Members
of the Ontario Committee on Taxation.

Gentlemen:

The Petroleum Association of Ontario, whose membership is comprised of the major oil companies in Canada:

British American Oil Co. Ltd.
B.P. (Canada) Limited
Canadian Oil Company
Canadian Petrofina Limited
Cities Service Oil Co. Ltd.
Imperial Oil Limited
Shell Canada Limited
Sun Oil Company Limited
Supertest Petroleum Corp. Ltd.
Texaco Canada Limited

appreciates the opportunity extended to it by your Committee to express its views on Taxation relating to the Petroleum Industry in the Province of Ontario.

THE MUNICIPAL UNCONDITIONAL GRANTS ACT
THE RESIDENTIAL AND FARM SCHOOL TAX ASSISTANCE GRANTS ACT

Throughout the Dominion of Canada, the measure of capacity to contribute to municipal and school costs is based on the value of real estate owned by each taxpayer. Basically the determination of the proper level of tax contribution is directly related to the accuracy of the establishment of assessment value. It is obvious that if a constant and equitable level of value on all properties of all categories is not established within each taxing jurisdiction, there will automatically result an unfair distribution of tax costs. All assessment statutes in Canada either by direct statement or by inference, are based on the principle of equity. In the Province of Ontario, this essential principle is not followed because of a taxation policy established recently in two statutes; The Municipal Unconditional Grants Act and The Residential and Farm School Tax Assistance Grants Act.

We consider that discrimination in the area of taxation may be of two categories, neither of which in the opinion of this Association is acceptable. There is illegal discrimination which can be countered by way of appeal to the several adjudicating bodies provided under Ontario law; the other form of discrimination which we believe to be even more objectionable than the first mentioned is legal discrimination. No relief from legal discrimination is available in the Courts. In the opinion of this Association, the taxation policy established under The Municipal Unconditional Grants Act and particularly under The Residential and Farm School Tax Assistance Grants Act, constitute conditions of legal discrimination. Any policy of taxation which obviates the basic principle of equity in taxation is in our opinion improper. These two statutes were introduced apparently on the assumption that commercial properties have an ability to support proportionately higher levels of municipal taxation than do residential and farm properties. With this proposition we do not agree. Moreover one of the sources of revenue used to subsidize municipalities under these two Acts is the Corporation Income Tax. Consequently, corporate tax revenues are used under the Municipal Unconditional Grants Act to benefit those corporations carrying on business in populous municipalities at the cost of those corporations carrying on business in other municipalities. Under the Residential and Farm School Tax Assistance Grants Act corporate tax revenues are used to reduce the school tax on residential and farm properties but not on commercial properties (mostly owned by corporations).

It is suggested by some that at the municipal level, only the cost of services rendered to people should be paid by people, even to the point of suggesting that only individuals enjoying the direct benefit of education for example, should pay for the cost of education. This Association does not agree with this argument recognizing that benefits of education are just as important to industry as to individuals. This Association does, however, take strong exception to principles in Municipal Unconditional Grants Act and The Residential and Farm School Tax Assistance Grants Act, which create a condition requiring commercial properties to assume an ever-increasing and disproportionate share of the cost of education and municipal services over that assumed by residential and farm properties in Ontario particularly when corporate tax revenues are being used to bring this about.

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ONTARIO ASSESSMENT ACT

The Ontario Assessment Act does not specify that the dominant and controlling factor in the assessment of land and buildings shall be equity. In theory the Assessment Act implies that equity will exist when all properties are assessed at actual value. Unfortunately, no municipality in Ontario is assessed on a true actual value basis. These circumstances result in a substantial number of inequities in assessment which almost invariably the courts are powerless to correct. Under Section 35, Subsections 2 and 4, certain factors are listed that must be considered by the assessor in determining actual value, but it is our opinion that the dominant factor must be equity in determining assessed value. There is required, therefore, an amendment to the Act clearly stating this principle.

Section 131, which deals with refunds or cancellation of taxes for periods of vacancy of three months or more in a calendar year, under 13(H) is not applicable to any building equipped or adapted for use for a limited and special class of occupancy only. We suggest that if the vacancy allowance is a valid tax policy then there is no reason why it should not apply to a property which has a limited usage.

At the present time the Assessment Act provides for a period of 14 days after the return of the assessment roll during which appeals may be made against any assessments. We feel that this period of time is not adequate for the proper consideration of the assessment by the taxpayer, nor does it afford him time to consult professional advisors. We suggest that the appeal period be increased to 30 days after the return of the roll.

BUSINESS ASSESSMENTS AND TAXES

In 1904, the Province of Ontario imposed the business assessment, largely as we know it today, as a replacement for the personal property assessment. In our opinion the abandonment of assessment of personal property was a sound move.

Whatever reasons there were in 1904 for the establishments of various percentages of business assessment, it is difficult, to say the least, why these various percentages should be maintained under present day conditions. Generally speaking, it is the accepted theory in the taxation of business enterprise that the impact of taxation should not differ with the type of business carried on. In other words, discriminatory taxation is to be avoided. We,

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therefore, recommend a standard or uniform rate of business assessment.

No provision in made in the Assessment Act for the business assessment of apartment properties. We are of the opinion that apartment property owners are conducting a commercial enterprise involving the investment of capital which should contribute by way of business tax exactly as all other commercial properties.

We believe that implementation of the foregoing suggestions will result in a much greater equitability in the distribution of the business tax burden.

ASSESSMENT OF RETAIL EQUIPMENT

In the Province of Ontario the Assessment Act permits the assessment of certain service station retail equipment items such as calculator pumps, hoists, compressors and air standards. The addition of this equipment in the assessment of a service station accounts for an increase in value up to 50% of the assessment of the service station building - which total value is then subjected to both real estate and business taxes.

In our experience with the exception of a recent case involving the assessment of laundromat equipment, no other retail equipment in any other commercial enterprise of our knowledge is being assessed and taxed.

It becomes obvious under these circumstances that the petroleum industry suffers an inequity in the method of calculation of its assessment of service station properties for municipal and school tax purposes. In our opinion the assessment of service station equipment results in double taxation in that the business assessment (which was designed to replace the assessment of personal property, i.e. retail equipment) is now being applied to both our real and personal property.

THE LOCAL IMPROVEMENT ACT

About two years ago the Taxation Committee of our Association, impressed by the ever increasing local improvement charges appearing on tax bills, decided to undertake a study of the Local Improvement Act and its implementation throughout Ontario.

The Local Improvement Act is designed to give property owners on a particular street or streets an opportunity to obtain such services as sewers, watermains, paved roads and sidewalks. Originally the improvement was initiated by the ratepayers on the street signing a petition. If the petition had the

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signatures of two-thirds of the owners representing at least one-half the value of the lots liable to be specially assessed, the municipal council would have the improvement installed and charged to the abutting ratepayers.

We believe that the Act should be amended to incorporate the following criticisms:

I. Additional safeguards are needed to protect the rights and interests of the taxpayer.

We find that municipal councils are inclined to use the most convenient way of handling local improvements. Thus instead of waiting for the property owners to petition for an improvement councils frequently proceed under Section 8, often at the request of a small but vocal minority of affected property owners. This method, while convenient for the council, places the onus on the property owner to fight against a local improvement instead of for it.

An alarming aspect of council initiated local improvements in some of the larger municipalities is the numerous instances of the improvements being undertaken at the request of municipal officials or vociferous tenants. In other words the people expected to pay for the improvement did not request it and were not even consulted before its installation.

The only opportunity the taxpayer has to combat the improvement is by filing an objection with the Municipal Board within 21 days of the first publication in the press of the notice of intention to apply to the Board for approval of the work. And we take note of the fact that few taxpayers read the complex local improvement notices published in the press because most taxpayers believe, mistakenly, they will receive a personal notice before the imposition of the local improvement. Moreover the Act merely requires the publication of the notice in a local newspaper, (municipality or county) which means, where there are two or more newspapers in a municipality or county, that many affected owners will not receive notice. Certainly the requirements of Section 12, Subsection 4 should be substituted for or added to the requirement of press publication.

II. The Local Improvement Act does not sufficiently protect the owner of corner lots or lots with three or more street frontages from excessive and inequitable local improvement charges.

We believe it was and is the intention of the legislature that corner lots and other lots abutting on two or more streets should be treated in

a fair and equitable manner in relation to lots with only one street frontage. We agree, in the case of corner lots, that local improvements on the principal street should be charged in the usual manner. What we criticize are the excessive and inequitable charges on the flanking street.

Members of the Taxation Committee of this Association wrote or visited 65 municipalities including cities, towns, villages and townships with populations ranging from 1,500 to 350,000.

We found 57 different ways of handling flankage local improvement charges. We found a few municipalities whose flankage allowance policy was equitable. At the opposite extreme we found a few municipalities that did not give any flankage allowance whatsoever. In the latter cases corner lots have to bear as much as 4 times the local improvement charges imposed on inside lots of a similar size. In some municipalities the flankage policy for watermain installations is laid down by the local Public Utilities Commission while the policy for sewer installations is set by the council. In other municipalities the policy is laid down by the same body but varies for no apparent reason, depending on the type of improvement, e.g. a 50 foot allowance for sewers and 100 feet for watermains.

We suggest the fault is partly with the legislation - Section 28, sub-section 1 of the Act which is intricately worded, and partly with municipal councils and commissions who either misinterpret this section of the Act or deliberately disregard the principle it contains.

III. The Act does not sufficiently protect the taxpayer who has frontage on an improvement (and is therefore liable to pay for it) installed for the benefit of people not abutting on the improvement (and therefore not liable to pay for it).

Sections 37 and 38 of the Act provide for the assessment of non-abutting lands receiving some of the benefits of the local improvement. These sections are designed to give some relief to the abutting property owners who would otherwise be liable for the whole assessment. Unfortunately, although the legislation is mandatory, few if any municipalities use it. Thus we have examples of 12 feet sidewalks being wholly charged to the abutting property owners although such sidewalks were installed to benefit nearby (but not abutting) apartment building dwellers.

Perhaps the difficulty in using these sections is the fact that

they require the non-abutting lands benefiting from the improvement to be assessed "on a frontage basis by an equal special rate per foot".

IV. An increasing number of municipalities are ignoring the original premise of The Local Improvement Act that the improvement is for the benefit of the abutting parcels of land, regardless of the type of use of the parcels. Today a number of municipalities discriminate against commercial properties by not according to them the same flankage exemptions, etc., given residential properties.

One startling result turned up during our survey. Over 15% of the municipalities admitted that discrimination between property used for residential and commercial purposes existed in the assessment of local improvement charges. In one municipality the flankage allowance for residential lots is 1/3 of the lots abutting the flankage - for commercial lots - nil. In another all the residential flankage is exempt whereas all commercial flankage is liable for local improvement charges. Unfortunately, the Act does not specifically prohibit a variation in treatment due to the use of the property. This lack of prohibition has obviously been construed as authority to discriminate.

Summarily, The Local Improvement Act should be amended as follows:

1. Restricting Council from by-passing taxpayers.
2. Providing specific safeguards to protect the taxpayer.
3. Clarifying several intricately worded sections.

Respectfully submitted,

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Chairman, Taxation Committee,
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